

# FCC Petition for Reconsideration of FCC Appeals

## Detroit Public School District - BEN 130944 – FY2015, 2014, 2013

June 23, 2017

Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Room TW-A325  
Washington, DC 20554 (*submitted electronically via ECFS*)

### **Appeal – CC Docket Nos. 96-45 and 02-6**

**FCC Appeal Decision Date:** May 31, 2017

**Form 471Numbers:** 1004196 (2015), 956114 (2014), 896784 (2013)

**Funding Request Numbers (FRNs):** 2757108 (2015), 2616428 (2014), 2462511 (2013)

**Funding Years:** 2015-2016, 2014-2015, 2013-2014

**Billed Entity Name:** Detroit Public School District

**BEN:** 130944

### **Contact Information:**

Contact Person Name: Jon Brent  
Contact Person Phone: 313-576-0335  
Contact Person Fax: 313-873-3209  
Contact Person E-Mail: [jon.brent@detroitk12.org](mailto:jon.brent@detroitk12.org)

**Decision being appealed:** FCC Denial of our Appeal via FCC DA 17-505 dated May 31, 2017.

**Text from FCC Denial Letter** (included as Att 1)

*“Considering Price of Eligible and Ineligible Items as Primary Factor in Vendor Selection<sup>19</sup>”*

### **Background:**

This Petition for Reconsideration represents our Appeals for three years (FY2015, FY2014 and FY2013) of a multi-year contract. This contract was originally approved in FY2013. It was approved again in FY2014 but denied in FY2015. We have received two Commitment Adjustment Letters (FY2014 and FY2013) that request repayment of all funds received in those years totaling \$353,841.31. No USAC funding was received in FY2015.

### **Basis for this Petition:**

We received no detailed reasons for this denial in the FCC’s Public Notice. Our Appeal contained a very detailed response to USAC’s original denial. Without specific rebuttals by FCC, we are at a disadvantage in this petition and it is the FCC’s duty under the law to inform us as to the specific points that they dispute in our arguments. We believe that if the FCC studied our Appeal in detail, it would determine that a waiver is in the public interest.

# FCC Petition for Reconsideration of FCC Appeals

## Detroit Public School District - BEN 130944 – FY2015, 2014, 2013

We are requesting that FCC re-consider its decision based on the following arguments:

- a. Our Appeal demonstrated that our evaluation process was within FCC guidelines in place at the time of the original RFP in FY2013 (see FCC Appeal DPS Encore VoIP 2015 05-12-16 pages 2 and 3).
- b. It is not clear exactly what FCC thought constituted “ineligible services” that were considered in the competitive bidding process. Neither USAC nor the FCC stated the specific reason for the denial in their decisions, as required by the Administrative Procedure Act.
- c. Regardless, Detroit Public Schools selected the least expensive bidder when ineligible services are removed from the evaluation. This is clear when reviewing the pricing at the bottom Attachment 5, cost-effectiveness matrix. The total eligible items’ year one costs, as listed on Attachment 5 of the cost-effectiveness evaluation matrix, was \$1,436,700 for Wayne RESA, \$1,866,350 for AT&T, and \$3,412,500 for Windstream. The Wayne RESA cost was the least expensive of the three bidders when just reviewing E-rate eligible costs.
- d. If the issue is that the Detroit Public School District improperly considered the “project cost one-time fees” (\$229,200 for Wayne and \$1,200,000 for Windstream), that would lower Wayne RESA’s costs to \$1,207,500 for total eligible items.
- e. If the Commission instead would prefer that the phones were cost-allocated out of the evaluation altogether to compare eligible services, along with the one-time project fee, Wayne RESA would still be the least expensive at the 36-month price – \$2,830,550 for AT&T to \$2,815,700 for Wayne RESA.<sup>1</sup>
- f. As the Commission has noted, with Detroit’s showing that it selected the least cost bidder when only eligible services were considered, it should receive a waiver of the alleged competitive bidding violation. *Request for Review of Decisions of the Universal Service Administrator by Allendale County School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 6109, 6115-17 ¶¶ 10-12 (Wireline Comp. Bur. 2011) (*Allendale Order*).
- g. This specific issue regarding the inclusion of phones should not arise again as the Commission has now changed the rule (in May 2014 – more than a year after this procurement) – that bundled ineligible services cannot be considered along with E-rate eligible services.
- h. We ask FCC to consider that the district made a best effort to navigate a confusing process and we believe that the overall good was best served by our decision regardless of any errors in the process. We argue that our decision and subsequent implementation served the public interest and the overall goals of the E-Rate program by providing the required eligible services at the lowest overall cost. Further, as the Commission is aware, VoIP service is typically less expensive than traditional phone service, so the fact that Detroit switched to VoIP services should be viewed favorably by the Commission.

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<sup>1</sup> Because Wayne RESA did not cost-allocate the phones from its bid, we used the AT&T cost of the phones to compare the two bids. We did not compare the Windstream bid as it was significantly more expensive.

## FCC Petition for Reconsideration of FCC Appeals

Detroit Public School District - BEN 130944 – FY2015, 2014, 2013

- i. Finally, Detroit Public Schools is one of the most financially strapped public school districts in the nation. The funding USAC is seeking to recover and deny could be used to educate children and pay teacher salaries instead of reverting to the USF. We ask FCC to consider the impact of this denial on our financial situation. The Demand Repayment totals for FY2013 and FY2014 total \$354k. The FY2015 denial of our FRN represents an additional loss of over \$350k that the district has paid to the Service Provider without E-rate discounts. There has never been a question of waste, fraud or abuse in this appeal. The goals of the E-Rate program and the public interest are not well-served by the Bureau's prior decision, and we respectfully request that the FCC reconsider and grant Detroit's appeal.

### **Summary and Requested Action:**

The denial of these FRNs has resulted in severe financial hardship for our district. We request that FCC reconsider our application based on the arguments above and approve these Funding Requests.

We appreciate your time and consideration.

Sincerely,  
Jon Brent  
EXEC DIR DEPLOYMENT AND TECH SUPPORT  
Detroit Public Schools  
3031 West Grand Blvd.  
Detroit, MI 48202  
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Fax: 313-873-3209  
[jon.brent@detroitk12.org](mailto:jon.brent@detroitk12.org)  
*(submitted electronically via ECFS)*

### **Attachments Included below:**

Att 1: FCC Public Notice DA 17-505



Federal Communications Commission  
Washington, D.C. 20554

## Memo

**To:** Jon Brent, for  
Detroit Public School District

**From:** Ryan B. Palmer, Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau  
Federal Communications Commission

**Date:** June 1, 2017

**Re:** DA No. 17-505, released May 31, 2017

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Please find accompanying this memo the Bureau's decision on your appeal. The accompanying decision may be referenced in the future by its proceeding number and release date: DA No. 17-505, Released May 31, 2017.

If the Bureau has granted your appeal, please contact the Universal Service Administrative Company (USAC) at 1-888-203-8100 for more information regarding your application. Please submit any information to USAC that the order may require. Once USAC has reviewed your application related to the issues resolved in the attached letter, you will receive a revised funding commitment decision letter.

If the Bureau has denied your appeal and you choose to seek consideration of the Bureau's decision, you must file either a petition for reconsideration by the Bureau or an application for review by the full Commission with the Commission within 30 days from the released date of this decision. You may file your petition for reconsideration or application for review using the Internet by accessing the Commission's electronic comment filing system (ECFS) at <http://fjallfoss.fcc.gov/ecfs2/>. Please be sure to reference CC Docket No. 02-6 on your filing.





# PUBLIC NOTICE

**Federal Communications Commission**  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

News Media Information 202 / 418-0500  
Internet: <https://www.fcc.gov>  
TTY: 1-888-835-5322

DA 17-505

Released: May 31, 2017

## STREAMLINED RESOLUTION OF REQUESTS RELATED TO ACTIONS BY THE UNIVERSAL SERVICE ADMINISTRATIVE COMPANY

CC Docket No. 02-6  
CC Docket No. 02-60

Pursuant to our procedure for resolving requests for review, requests for waiver, and petitions for reconsideration of decisions related to actions taken by the Universal Service Administrative Company (USAC) that are consistent with precedent (collectively, Requests), the Wireline Competition Bureau (Bureau) grants, dismisses, or denies the following Requests.<sup>1</sup> The deadline for filing petitions for reconsideration or applications for review concerning the disposition of any of these Requests is 30 days from release of this Public Notice.<sup>2</sup>

### Schools and Libraries (E-rate)

CC Docket No. 02-6

#### Dismissed<sup>3</sup>

County of Los Angeles ISD Telecom Management Division, CA, Application No. 1050350, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2017)

Shelter Isles Union Free School District, NY, Application No. 1010365, Request for Review, CC Docket No. 02-6 (filed Apr. 24, 2017)

<sup>1</sup> See *Streamlined Process for Resolving Requests for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45 and 02-6, WC Docket Nos. 02-60, 06-122, 08-71, 10-90, 11-42, and 14-58, Public Notice, 29 FCC Rcd 11094 (WCB 2014). Section 54.719(b) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC, after first seeking review at USAC, may seek review from the Commission. Section 54.719(c) of the Commission's rules provides that parties seeking waivers of the Commission's rules shall seek review directly from the Commission. 47 CFR § 54.719(b)-(c). In this Public Notice, we have reclassified as Requests for Waiver those appeals seeking review of a USAC decision that appropriately should have requested a waiver of the Commission's rules. Similarly, we have reclassified as Requests for Review those appeals seeking a waiver of the Commission's rules but are actually seeking review of a USAC decision.

<sup>2</sup> See 47 CFR §§ 1.106(f), 1.115(d); see also 47 CFR § 1.4(b)(2) (setting forth the method for computing the amount of time within which persons or entities must act in response to deadlines established by the Commission).

<sup>3</sup> See, e.g., *Request for Review of a Decision of the Universal Service Administrator by La Canada Unified School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 30 FCC Rcd 4729, 4729, para. 2 (WCB 2015) (dismissing an appeal that properly belongs before USAC pursuant to Commission rules).

Dismissed as Moot<sup>4</sup>

Aldine Independent School District, TX, Application No. 171028017, Request for Waiver, CC Docket No. 02-6 (filed Apr. 7, 2017)

Dismissed as Moot<sup>5</sup>

FOCUS Learning Academy, TX, Application No. 1055252, Request for Waiver, CC Docket No. 02-6 (filed Jan. 20, 2016)

Guernsey County District Library, OH, Application No. 966226, Request for Review, CC Docket No. 02-6 (filed May 26, 2016)

Industrial Independent School District, TX, Application No. 962646, Request for Waiver, CC Docket No. 02-6 (filed Mar. 18, 2016)

Public Service Telephone Company (Crawford School District), GA, Application No. 941332, Request for Review, CC Docket No. 02-6 (filed May 20, 2016)<sup>6</sup>

Dismissed for Failure to Comply with the Commission's Basic Filing Requirements<sup>7</sup>

Kelvin Yee, CA, No Application Number Given, Request for Waiver, CC Docket No. 02-6 (filed May 25, 2016)

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<sup>4</sup> See, e.g., *Request for Waiver and Review of a Decision of the Universal Service Administrator by Connecticut Educators' Network; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 13935, 13936, para. 2 (WCB 2012) (dismissing request for waiver as moot insofar as the petitioner complied with the applicable program rule).

<sup>5</sup> See, e.g., *Requests for Review of Decision of the Universal Service Administrator by Diversified Computer Solutions, Inc.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 5250, 5251, para. 3 (WCB 2012) (dismissing appeals as moot where invoicing records demonstrate that the entity was fully compensated for the funding it requested and all submitted invoices funded).

<sup>6</sup> Public Service Telephone Company sought a waiver to submit an invoice with respect to FRN 2579546. USAC, however, has already disbursed the entire amount committed, \$4,300.34, with respect to FRN 2579546 so the petitioner's waiver request is moot.

<sup>7</sup> 47 CFR § 54.721 (setting forth general filing requirements for requests for review of decisions issued by USAC, including the requirement that the request for review include supporting documentation); see also *Wireline Competition Bureau Reminds Parties of Requirements for Request for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45, 02-6, WC Docket Nos. 02-60, 06-122, 10-90, 11-42, 13-184, 14-58, Public Notice, 29 FCC Rcd 13874 (WCB 2014) (reminding parties submitting appeals to the Bureau of the general filing requirements contained in the Commission's rules which, along with a proper caption and reference to the applicable docket number, require (1) a statement setting forth the party's interest in the matter presented for review; (2) a full statement of relevant, material facts with supporting affidavits and documentation; (3) the question presented for review, with reference, where appropriate, to the relevant Commission rule, order or statutory provision; and (4) a statement of the relief sought and the relevant statutory or regulatory provision pursuant to which such relief is sought); *Universal Service Contribution Methodology; Request for Review by Alternative Phone, Inc. and Request for Waiver*, WC Docket No. 06-122, Order, 26 FCC Rcd 6079 (WCB 2011) (dismissing without prejudice a request for review that failed to meet the requirements of section 54.721 of the Commission's rules).



Dismissed on Reconsideration<sup>8</sup>

Community Partnership for Child Development, CO, Application No. 161061775, Petition for Reconsideration, CC Docket No. 02-6 (filed Dec. 27, 2016)

Crook County Library, OR, Application No. 161061586, Petition for Reconsideration, CC Docket No. 02-6 (filed Apr. 11, 2017)

Granted<sup>9</sup>

*Ineligible Items Not Included as Factor in Vendor Selection*<sup>10</sup>

Long Branch School District, NJ, Application No. 957877, Request for Review, CC Docket No. 02-6 (filed June 24, 2016)

Long Branch School District, NJ, Application No. 1022183, Request for Review, CC Docket No. 02-6 (filed Sept. 15, 2016)

*Eligible Entities*<sup>11</sup>

Centro Tecnológico Amor Que Sana, PR, Application Nos. 1047339, 1047428, 1047469, Request for Review, CC Docket No. 02-6 (filed Mar. 7, 2016)

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<sup>8</sup> See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Allan Shivers Library et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order and Order on Reconsideration, 29 FCC Rcd 10356, 10357, para. 2 (WCB 2014) (dismissing petitions for reconsideration that fail to identify any material error, omission, or reason warranting reconsideration, and rely on arguments that have been fully considered and rejected by the Bureau within the same proceeding).

<sup>9</sup> We remand these applications to USAC and direct USAC to complete its review of the applications, and issue a funding commitment or a denial based on a complete review and analysis, no later than 90 calendar days from the release date of this Public Notice. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' applications. We also waive sections 54.507(d) and 54.514(a) of the Commission's rules and direct USAC to waive any procedural deadline that might be necessary to effectuate our ruling. See 47 CFR § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year); 47 CFR § 54.514(a) (codifying the invoice filing deadline).

<sup>10</sup> See, e.g., *Requests for Review of a Decision of the Universal Service Administrator by Spokane School District 81; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order on Reconsideration 29 FCC Rcd 9695, 9696-97, para. 4 (WCB 2014) (finding that petitioner had not included ineligible services in its price evaluation). Petitioner's explanation of the early termination fees' appearance on the bid evaluation worksheets is supported by the evidence in the record. The bid scores reflected in the second scoring worksheet is inconsistent with the consideration of early termination fees. Additionally, Long Branch School District requests review of FCC Form 471 161048574, FRN 1699110695, for funding year 2016. An appeal of that FRN is currently pending before USAC. However, the basis for denial of that FRN is identical to those at issue here. Accordingly, our conclusions today are equally applicable to FRN 1699110695.

<sup>11</sup> See, e.g., *Requests for Review of the Decisions of the Universal Service Administrator by Bootheel Consortium et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 8747, 8750-51, paras. 7-8 (2007) (directing USAC to reevaluate the eligibility for E-rate support of various entities given the additional supporting evidence that applicants have provided).



*Granted on Reconsideration – Technology Plan Requirement*<sup>12</sup>

YouthBuild Columbus Community School, OH, Application No. 370891, Petition for Reconsideration, CC Docket No. 02-6 (filed Dec. 26, 2012)

*Granting Additional Time to Respond to USAC's Request for Information*<sup>13</sup>

Abbeville County School District, SC, Application No. 1026681, Request for Waiver, CC Docket No. 02-6 (filed Dec. 3, 2015)

*Incorrect Service Start Date on FCC Form 486*<sup>14</sup>

Grayson County School District, VA, Application No. 1002529, Request for Review, CC Docket No. 02-6 (filed Apr. 24, 2017)

*Late-Filed FCC Form 471 Applications Filed within 14 Days of the Close of the Window*<sup>15</sup>

Alma Center-Humbird-Merrillan SD, WI, Application Nos. 171029946, 171048949, Request for Waiver, CC Docket No. 02-6 (filed May 17, 2017)

American Horse School, SD, Application No. 171048906, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2017)

Beach Park School District 3, IL, Application No. 171048909, Request for Waiver, CC Docket No. 02-6 (filed May 17, 2017)

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<sup>12</sup> See, e.g., *Requests for Review or Waiver of the Decisions of the Universal Service Administrator by Brownsville Independent School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 6045, 6049, para. 8 (2007) (granting the appeals and waiving technology plan rules for petitioners that, among other things, had technology plans in place, but failed to get formal approval in a timely fashion).

<sup>13</sup> See, e.g., *Requests for Review of the Decision of the Universal Service Administrator by Alpaugh Unified School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 6035, 6036-37, paras. 4-5 (2007) (granting appeals where applicants demonstrate they submitted information within the USAC-specified time frame). Consistent with precedent, for Abbeville County School District, we also find good cause exists to waive sections 54.720(a) and (b) of the Commission's rules, which require that petitioners file their appeals within 60 days of an adverse USAC decision. See *Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by ABC Unified School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 11019, 11019, para. 2 (WCB 2011) (*ABC Unified School District Order*) (waiving the filing deadline for petitioners that submitted their appeals to the Commission or USAC only a few days late); 47 CFR §§ 54.720(a), (b).

<sup>14</sup> See, e.g., *Request for Review and/or Waiver by Glendale Unified School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 21 FCC Rcd 1040 (WCB 2006); see also *Request for Waiver by Harvey Public Library District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd 15419 (WCB 2008) (both orders granting waiver requests when the applicants inadvertently listed the wrong service start date on their FCC Forms 486).

<sup>15</sup> See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Academy of Math and Science et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 9256, 9259, para. 8 (2010) (*Academy of Math and Science Order*) (finding special circumstances exist to justify granting waiver requests where, for example, petitioners filed their FCC Forms 471 within 14 days after the FCC Form 471 filing window deadline).



Beach Park School District 3, IL, Application No. 171048910, Request for Waiver, CC Docket No. 02-6 (filed May 17, 2017)

Bensalem Township School District, PA, Application No. 171048937, Request for Waiver, CC Docket No. 02-6 (filed May 16, 2017)

Benton Harbor Public Library, MI, Application No. 171048921, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2017)

Bibliotecas de Comunidades Especiales, PR, Application Nos. 171048702, 171048835, Request for Waiver, CC Docket No. 02-6 (filed May 12, 2017)

Bradley Union School District, CA, Application No. 171048209, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2017)

Cardinal Ritter College Prep School, MO, Application No. 171048960, Request for Waiver, CC Docket No. 02-6 (filed May 16, 2017)

Caroline Education Community International Public School Academy, MI, Application No. 171048525, Request for Waiver, CC Docket No. 02-6 (filed May 12, 2017)

C. E. Weldon Public Library, CA, Application No. 171007515, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2017)

Coastal Community Action, Inc., NC, Application Nos. 171045173, 171048791, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2017)

Collegiate Charter School of Lowell, MA, Application No. 171022941, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2017)

Delaware Valley School District, PA, Application Nos. 171048979, 171048980, Request for Waiver, CC Docket No. 02-6 (filed May 18, 2017)

Donegal School District, PA, Application No. 171048944, Request for Waiver, CC Docket No. 02-6 (filed May 17, 2017)

Edgar County CU School District 6, IL, Application No. 171039870, Request for Waiver, CC Docket No. 02-6 (filed May 24, 2017)

Educational Consortium for Telecommunications Savings (Bensalem Township School District, Berwick Area School District, Columbia Montour AVTS District, Tabernacle School District, Upper Merion Township School District), PA and NJ, Application Nos. 171048937, 171048931, 171048932, 171048946, 171048926, 171048928, Requests for Waiver, CC Docket No. 02-6 (filed May 16, 2017)

Einstein Charter School District, LA, Application No. 171048838, Request for Waiver, CC Docket No. 02-6 (filed May 12, 2017)

First Baptist Church Head Start, CA, Application No. 171022571, Request for Waiver, CC Docket No. 02-6 (filed May 17, 2017)

Gavin School District 37, IL, Application No. 171048894, Request for Waiver, CC Docket No. 02-6 (filed May 16, 2017)

Gavin School District 37, IL, Application No. 171048895, Request for Waiver, CC Docket No. 02-6 (filed May 16, 2017)

Gavin School District 37, IL, Application No. 171048897, Request for Waiver, CC Docket No. 02-6 (filed May 16, 2017)

Gavin School District 37, IL, Application No. 171048899, Request for Waiver, CC Docket No. 02-6 (filed May 16, 2017)

Golden Eagle Charter School, CA, Application Nos. 171048994, 171048995, 171048996, 171048997, Request for Waiver, CC Docket No. 02-6 (filed May 19, 2017)

Greater Latrobe School District, PA, Application No. 171048948, Request for Waiver, CC Docket No. 02-6 (filed May 16, 2017)

Hale County Library, AL, Application No. 171048959, Request for Waiver, CC Docket No. 02-6 (filed May 24, 2017)

Immaculate Conception School, FL, Application No. 171049074, Request for Waiver, CC Docket No. 02-6 (filed May 23, 2017)

Kankakee School District 111, IL, Application No. 171048965, Request for Waiver, CC Docket No. 02-6 (filed May 17, 2017)

Kildeer Countryside Community Consolidated School District 96, IL, Application No. 171048888, Request for Waiver, CC Docket No. 02-6 (filed May 16, 2017)

Killdeer Public School District 16, ND, Application No. 171048154, Request for Waiver, CC Docket No. 02-6 (filed May 12, 2017)

Loneman Day School, SD, Application Nos. 171048905, 171048907, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2017)

Louisburg Unified School District 416, KS, Application No. 171048925, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2017)

McDowell County Public Library, NC, Application No. 171048986, Request for Waiver, CC Docket No. 02-6 (filed May 17, 2017)

Mundelein High School District 120, IL, Application No. 171048919, Request for Waiver, CC Docket No. 02-6 (filed May 16, 2017)

New Foundations Charter School, PA, Application No. 171048803, Request for Waiver, CC Docket No. 02-6 (filed May 16, 2017)

Norfolk County Agricultural High School, MA, Application No. 171036663, Request for Waiver, CC Docket No. 02-6 (filed May 12, 2017)

Our Lady of the Lakes, FL, Application No. 171048868, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2017)



Pace School, PA, Application No. 171048977, Request for Waiver, CC Docket No. 02-6 (filed May 17, 2017)

Pacific Southwest District – Lutheran Church Missouri Synod, CA, Application No. 171049002, Request for Waiver, CC Docket No. 02-6 (filed May 18, 2017)

PALS Plus, NJ, Application No. 171048963, Request for Waiver, CC Docket No. 02-6 (filed May 18, 2017)

Patoka Community Unit School District #100, IL, Application No. 171049091, Request for Waiver, CC Docket No. 02-6 (filed May 24, 2017)

Rockford Lutheran School, IL, Application No. 171048967, Request for Waiver, CC Docket No. 02-6 (filed May 16, 2017)

Sarah J. Webber Media Arts Academy, MI, Application Nos. 171047687, 171048853, Request for Waiver, CC Docket No. 02-6 (filed May 12, 2017)

Sistema de Bibliotecas de Barceloneta, PR, Application Nos. 171048975, 171048976, Request for Waiver, CC Docket No. 02-6 (filed May 16, 2017)

Skokie School District 69, IL, Application No. 171048900, Request for Waiver, CC Docket No. 02-6 (filed May 16, 2017)

Skokie School District 69, IL, Application No. 171048901, Request for Waiver, CC Docket No. 02-6 (filed May 16, 2017)

Southern California Library, CA, Application No. 171048936, Request for Waiver, CC Docket No. 02-6 (filed May 18, 2017)

St. Joseph County Public Library, IN, Application No. 171048822, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2017)

St. Joseph County Public Library, IN, Application No. 171048938, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2017)

St. Kilian Elementary School, WI, Application No. 171045339, Request for Waiver, CC Docket No. 02-6 (filed May 12, 2017)

Summit Hill School District 161, IL, Application No. 171048940, Request for Waiver, CC Docket No. 02-6 (filed May 16, 2017)

Today's Fresh Start Consortium, CA, Application No. 171048812, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2017)

Today's Fresh Start Consortium, CA, Application No. 171048832, Request for Waiver, CC Docket No. 02-6 (filed May 16, 2017)

YWCA of Greater Miami-Dade, Inc., FL, Application Nos. 171048261, 171049000, Request for Waiver, CC Docket No. 02-6 (filed May 19, 2017)



*Ministerial and/or Clerical Error*<sup>16</sup>

Orange County School District, NC, Application No. 1017586, Request for Review, CC Docket No. 02-6 (filed Jan. 27, 2017)

*Unable to Timely Invoice Awaiting USAC Action*<sup>17</sup>

South Pike School District, MS, Application Nos. 1030571, 1047239, 1047421, Request for Waiver, CC Docket No. 02-6 (filed Mar. 20, 2017)

Turner (Kansas) Unified School District, KS, Application No. 981057, Request for Waiver, CC Docket No. 02-6 (filed May 5, 2017)

*Waiver of Appeal Filing Deadline*<sup>18</sup>

Internet Archive, CA, Application No. 1011108, Request for Waiver, CC Docket No. 02-6 (filed July 11, 2016)

Mississippi Department of Information Technology Services, MS, Application No. 981438, Request for Waiver, CC Docket No. 02-6 (filed Mar. 28, 2017)

Denied

*Considering Price of Eligible and Ineligible Items as Primary Factor in Vendor Selection*<sup>19</sup>

Detroit Public School District, MI, Application No. 896784, Request for Review and/or Waiver, CC Docket No. 02-6 (filed July 6, 2016)

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<sup>16</sup> See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Archer Public Library et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd 15518, 15521, n.19 (WCB 2008) (permitting correction of error concerning confused amounts for the whole district and amounts for individual schools).

<sup>17</sup> See *Request for Review and/or Waiver of Decisions of the Universal Service Administrator by Ada Public Library; Schools and Libraries Universal Support Mechanism*, 32 FCC Rcd 1909, 1911, para. 6 (WCB 2017) (granting a waiver for applicants who were unable to file a BEAR form because they were waiting for USAC to provide an FCC Form 498 ID or personal identification number (PIN) at the time of the deadline due to one-time influx of requests in the fall of 2016).

<sup>18</sup> See, e.g., *ABC Unified School District Order*, 26 FCC Rcd at 11019, para. 2 (waiving the filing deadline for petitioners that submitted their appeals to the Commission or USAC only a few days late). We make no finding on the underlying issues in these appeals and remand these applications back to USAC to make a determination on the merits. See *supra* note 9.

<sup>19</sup> See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Spokane School District 81; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 6026 (WCB 2013) (denying appeal where applicant failed to use the price of eligible services as the primary factor and it is not clear from the record that the applicant selected the lowest-cost provider); see also, generally, *Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District et al.; Federal-State Joint Board on Universal Service; Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45, 97-21, Order, 18 FCC Rcd 26407, 26410, para. 52 (2003) (explaining that “[t]he prices relevant to our competitive bidding requirements are those of eligible services”).

Detroit Public School District, MI, Application No. 956114, Request for Review and/or Waiver, CC Docket No. 02-6 (filed July 6, 2016)

Detroit Public School District, MI, Application No. 1004196, Request for Review and/or Waiver, CC Docket No. 02-6 (filed May 13, 2016)

*Failure to Consider All Bids*<sup>20</sup>

Higgs, Carter, King Gifted & Talented Charter Academy, TX, Application Nos. 580715, 629330, Request for Review, CC Docket No. 02-6 (filed Sept. 16, 2013)

*Improper Service Provider Involvement*<sup>21</sup>

Integrity Communications (Vanguard Academy), KS, Application No. 577149, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Nov. 8, 2010)

Integrity Communications (Vanguard Academy), KS, Application No. 629573, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Nov. 12, 2010)

Integrity Communications (Vanguard Academy), KS, Application No. 685852, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Nov. 5, 2010)

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<sup>20</sup> See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Central Islip Free Union School District et al; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 8630, 8635-36, paras. 11-12 (WCB 2011) (*Central Islip Order*) (denying the request for waiver of petitioners where USAC found they did not carefully consider all bids submitted in response to their FCC Form 470 postings in accordance); 47 CFR § 54.511.

<sup>21</sup> See, e.g., *Requests for Waiver & Review of Decisions of the Universal Service Administrator by Networks & More! Inc., et. al; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 2564, 2565 (WCB 2012) (denying appeal where service provider assisted applicants with their competitive bidding process, and “emphasiz[ing] that any direct involvement by the service provider in the preparation and submission of the FCC Form 470, even clerical or data entry assistance, is a violation of the Commission’s competitive bidding rules”). Although Integrity Communications denies all allegations of improper service provider involvement, Vanguard Academy’s Business Manager informed USAC that Integrity Communications created the bid evaluation matrix used to evaluate the bids received during Funding Years 2007-2009 and Integrity Communications provided responses to Vanguard Academy’s questions during the bidding phase of the application process. Additionally, we deny Application No. 577149 on the basis that Vanguard Academy failed to consider all bids submitted in response to its FCC Form 470. See, e.g., *Central Islip Order*, 26 FCC Rcd at 8640, para. 22 (denying appeal where applicant failed to carefully consider all bids submitted in response to its FCC Form 470 posting). We also deny Application No. 685852 on the basis that Vanguard Academy failed to adhere to its own bid evaluation criteria by not awarding the highest points for cost to the lowest costing vendor. See, e.g., *Central Islip Order*, 26 FCC Rcd at 8638, para. 17 (denying funding requests where the evidence demonstrated that applicant “failed to adhere to its own evaluation criteria in the vendor selection process”). At this time, we do not address the cost-effective issue raised by USAC for Application Nos. 577149, 629573, and 685852 as there are grounds for denying these applications.



*Invoice Deadline Extension Requests*<sup>22</sup>

Albany Public Library, NY, Application Nos. 1018150, 1040809, Request for Waiver, CC Docket No. 02-6 (filed May 1, 2017)

Charter Advanced Services (MO), LLC (St. Louis City School District), MO, Application No. 954886, Request for Waiver, CC Docket No. 02-6 (filed Dec. 17, 2016)

Charter Fiberlink - Missouri, LLC (Riverview Gardens School District), MO, Application No. 897155, Request for Waiver, CC Docket No. 02-6 (filed Dec. 17, 2016)

Charter Fiberlink - Missouri, LLC (St. Louis City School District), MO, Application No. 897191, Request for Waiver, CC Docket No. 02-6 (filed Dec. 17, 2016)

Charter Fiberlink - Missouri, LLC (St. Louis City School District), MO, Application No. 837952, Request for Waiver, CC Docket No. 02-6 (filed Dec. 17, 2016)

Clearfield Area School District, PA, Application No. 1048526, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2017)

Cooper Independent School District, TX, Application No. 1015617, Request for Waiver, CC Docket No. 02-6 (filed Nov. 30, 2016)

Cooper Independent School District, TX, Application No. 1029674, Request for Waiver, CC Docket No. 02-6 (filed Nov. 30, 2016)

Dr. Lena Edwards Academic Charter School, NJ, Application No. 1050079 (FRNs 2869927 and 2871548), Request for Waiver, CC Docket No. 02-6 (filed Feb. 27, 2017)

Moline-Coal Valley School District, IL, Application No. 998865, Request for Waiver, CC Docket No. 02-6 (filed May 2, 2017)

Oakland Unified School District, CA, Application No. 909109, Request for Waiver, CC Docket No. 02-6 (filed May 5, 2017)

Pasadena Independent School District, TX, Application No. 971519, Petition for Reconsideration, CC Docket No. 02-6 (filed Sept. 6, 2016)

San Jacinto Unified School District, CA, Application No. 829443, Request for Waiver, CC Docket No. 02-6 (filed Jan. 7, 2016)

Sivells Bend Independent School District, TX, Application No. 964367, Request for Waiver, CC Docket No. 02-6 (filed Dec. 23, 2015)

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<sup>22</sup> See, e.g., *Requests for Waiver of Decisions of the Universal Service Administrator by Ada School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 31 FCC Rcd 3834, 3836, para. 8 (WCB 2016) (denying requests for waiver of the Commission's invoice extension rule for petitioners that failed to demonstrate extraordinary circumstances justifying a waiver); see also *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870, 8966, para. 240 (2014) (establishing that it is generally not in the public interest to waive the Commission's invoicing rules absent extraordinary circumstances); 47 CFR § 54.514.



St. Margaret Mary, KY, Application No. 984251, Request for Waiver, CC Docket No. 02-6 (filed Apr. 21, 2016)

Sun Wireless (Lemon Grove Elementary School District), CA, Application No. 884447, Request for Waiver, CC Docket No. 02-6 (filed Mar. 31, 2017)

Wittenberg-Birnamwood School District, WI, Application Nos. 1010583, 1024621, 1024672, 1024654, 1024682, 1024693, Request for Waiver, CC Docket No. 02-6 (filed Feb. 3, 2017)<sup>23</sup>

*Late-Filed FCC Form 471 Applications*<sup>24</sup>

Ace Tech Charter High School, IL, Application Nos. 161055461, 161056423, Request for Waiver, CC Docket No. 02-6 (filed Feb. 10, 2017)

Harkham-Goan Academy, CA, Application No. 161061610, Request for Waiver, CC Docket No. 02-6 (filed Mar. 22, 2017)<sup>25</sup>

Living Faith Academy, FL, Application No. 161056963, Petition for Reconsideration, CC Docket No. 02-6 (filed Dec. 29, 2016)

Phoenix Charter Academy, MA, Application No. 161058389, Request for Waiver, CC Docket No. 02-6 (filed Mar. 13, 2017)

Poudre School District, CO, Application No. 161042271, Request for Waiver, CC Docket No. 02-6 (filed Mar. 15, 2017)

St. Agnes Elementary School, CA, Application No. 1047588, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2017)

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<sup>23</sup> FRNs 2781030, 2781649, and 2781614 were fully disbursed.

<sup>24</sup> See, e.g., *Request for Waiver and Review of Decisions of the Universal Service Administrator by Academy of Math and Science et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 9256, 9259, para. 8 (2010) (denying requests for waiver of the FCC Form 471 filing window deadline where petitioners failed to present special circumstances justifying waiver of our rules).

<sup>25</sup> Note, although Harkham-Goan Academy petitioned to correct a clerical error on a timely-filed FCC Form 471, we find that the application at issue was filed late.

*State Master Contract*<sup>26</sup>

Duval County School District, FL, Application No. 801615, Request for Review, CC Docket No. 02-6 (filed Jan. 4, 2013)

*Untimely Filed Requests for Review*<sup>27</sup>

Clover Park School District, WA, Application No. 823696, Request for Waiver, CC Docket No. 02-6 (filed Feb. 25, 2013)

Garvey School District, CA, Application No. 632429, Request for Waiver, CC Docket No. 02-6 (filed Sept. 2, 2009)

Technology Integration Group (Dougherty County School System), GA, Application No. 811570, Request for Waiver, CC Docket No. 02-6 (filed Mar. 13, 2017)<sup>28</sup>

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<sup>26</sup> See, e.g., *Request for Review of a Decision of the Universal Service Administrator by Paterson School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 21 FCC Rcd 13101 (WCB 2006) (providing a waiver to an applicant to receive funding beyond the contract expiration date of a state master contract, but only because the same contract had an option to extend, which was exercised). Here, applicant seeks funding for service from a new provider based on a new state master contract, beyond the expiration date of the original contract, even though it did not follow E-rate rules for contracts that would expire during the funding year and be replaced with a new state master contracts. It also suggests that it received conflicting advice from third parties about what it should do. See, e.g., *Request for Review by Sullins Academy of the Decision of the Universal Service Administrator; Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45, 97-21, Order, 17 FCC Rcd 23829 (2002) (stating that where a party may have received erroneous advice, the government is not estopped from enforcing its rules in a manner that is inconsistent with the advice provided by the employee).

<sup>27</sup> See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Agra Public Schools I-134 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 5684 (WCB 2010); *Requests for Waiver or Review of Decisions of the Universal Service Administrator by Bound Brook School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 5823 (WCB 2014) (denying appeals on the grounds that the petitioners failed to submit their appeals either to the Commission or to USAC within 60 days, as required by the Commission's rules, and did not show special circumstances necessary for the Commission to waive the deadline).

<sup>28</sup> The date of the notification letter for invoice 2424705 was October 31, 2016.



**Rural Health Care (RHC)**  
**WC Docket No. 02-60**

**Denied**

*Violation of the Competitive Bidding 28-Day Rule*<sup>29</sup>

TeleQuality Communications, Inc., on behalf of Gonzales Community Health Center, HCP No. 26215, WC Docket No. 02-60 (filed Mar. 10, 2006).

For additional information concerning this Public Notice, please contact Kate Dumouchel in the Telecommunications Access Policy Division, Wireline Competition Bureau, at [kate.dumouchel@fcc.gov](mailto:kate.dumouchel@fcc.gov) or at (202) 418-7400.

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<sup>29</sup> USAC denied Gonzales Community Health Center's (Gonzales) requests for support after determining that it signed service contracts with TeleQuality Communications, Inc. (TeleQuality) prior to posting a FY 2016 FCC Form 465 and initiating a competitive bidding process for FY 2016. *See* Letter from USAC, Rural Health Care Division, to Mr. Raziel De La Barreda, Gonzales Community Health Center (dated Jan. 11, 2017) (concerning funding request numbers (FRNs) 1687929 and 1687934). In its appeal, TeleQuality claims that its contracts with Gonzales were competitively bid pursuant to an FCC Form 465 that Gonzales posted in FY 2005 and that, consistent with the *Waukon Order*, the applications at issue should have been approved for support. *See* TeleQuality Appeal; *Request for Review Franciscan Skemp Waukon Clinic*, WC Docket No. 02-60, Order, 29 FCC Rcd 11714, 11715, para. 3 (2014) (*Waukon Order*). The record shows that Gonzales signed new service contracts with TeleQuality on April 5, 2016, more than one year after Gonzales posted its FY 2015 FCC Form 465 and 39 days before it posted an FCC Form 465 for FY 2016. TeleQuality officially activated the contracted services on July 1, 2016, *i.e.*, the beginning of FY 2016, and the contract term was to commence on that date. *See, e.g.*, TeleQuality Appeal, Attachment 1. The exception outlined in the *Waukon Order* applies to the continuation of services from one FY to the next under an existing, active contract; it does not apply to new contracts that were not in effect the previous FY or to new contracts for services that had not been activated in the previous FY. Because, in this instance, the contract term began on July 1, 2016, and the underlying services had not been activated in FY 2015, Gonzales could not have chosen to continue services from FY 2015 to FY 2016 under *Waukon*. Rather, we agree with USAC's assessment that the April 5, 2016 TeleQuality contracts were new contracts for FY 2016 executed 39 days before Gonzales posted its FY 2016 FCC Form 465. The fact that Gonzales did not receive bids from any other service provider during the 28-day waiting period does not cure Gonzales's error in prematurely signing a contract with TeleQuality. *See Waukon Order*, 29 FCC Rcd at 11717, para. 8. TeleQuality has not presented evidence demonstrating that USAC erred in its decisions or that Gonzales otherwise complied with RHC program rules. Moreover, the underlying record in this instance does not reveal the existence of special circumstances warranting a waiver of RHC program rules. *See Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). Consequently, we deny TeleQuality's request for review.